**Remarks**

Background

This case was finally rejected in an office action mailed January 9, 2008, relying mostly on a combination of Adams, Hanson and Dobbins, with regard to independent claims 1 and 19, and further with See and Kasper added to the combination with regard to independent claim 15. Applicant filed a request for pre-appeal conference on April 8, 2008 and on April 24, 2008, prosecution was re-opened.

Claims 1-20 are pending.

Claims 1-20 were rejected by the Examiner.

Response to Claim Rejections

Claims 1, 3-7, 13-14, 19-20 were rejected under 35 USC 103(a) as being unpatentable over Adams (US Publication No. 2002/0046232) in view of Hanson (US Publication No. 2004/018487) and further in view of Juitt (US 2003/0087629).

Applicant notes that this is the same combination previously relied upon except for the substitution of Juitt for Dobbins.

With regard to claim 1, the Office Action states, "Hanson does teach transmitting a client-side application to a file-sharing user having a share file, the client-side application for generating metadata corresponding to the shared file…(paragraph 47, paragraph 65, lines 1-5).

Hanson, paragraph 47 states, "The metadata repository 210 contains metadata associated with all content which can be distributed through the DMCHP network. Attributes which may be contained in the metadata repository 210 include:" There is no indication from where the metadata comes, nor that there is any generation of the metadata by any clients.

Further, paragraph 65, lines 1-5 states, "A selling side *user interface (UI) module 250* provides a user interface which allows the user to become a provider by registering content on the DMCHP 200 and setting prices, reviewing purchase history, and reconciling accounts, for example." There is no indication that there is any 'generation of metadata' by a client-side application.

Further, the user interface module 250 is part of the DMCHP 200. Paragraph 46 states, "As shown in FIG. 2, DMCHP 200 is *comprised of these modules.*" The paragraph goes on to say that while the DMCHP is shown as a single entity in Figure 2, it may be distributed "over a number of *servers* or may be available from one or more redundant *servers.*"

The user interface module 250 is a module contained with in the DMCHP, which in turn is distributed over a number of servers. Therefore, the user interface module is not a client-side module. Further, there is no mention anywhere in the Hanson reference that any code is downloaded to the client computer, much less code that generates metadata.

Therefore, even if it would be obvious to combine the teachings of Adams and Hanson, the combination of references would not teach or suggest *transmitting a client-side application to a file-sharing user having a shared title, the client-side application for generating metadata corresponding to the shared titled...* as required by claim 1.

As stated in the Office Action, the combination of Adams and Hanson does not teach bandwidth being allocated to the "file-sharing user at a first level...allocated to the querying user at a second level lover than a first level." The Office Action relies upon Juitt for this element of the claimed invention.

However, Juitt does not teach that there are file-sharing users and querying users. Juitt merely discloses that users may have different roles and the role may determine the allocation of

bandwidth. Further, Juitt does not teach that the allocation of bandwidth to the file-sharing user is based upon a number of files the file-sharing user has to share, as is required in amended claim 1.

Claim 19 requires, "establishing two classes of users...including a sharing class that primarily provides data and a searching class that primarily searches for data..." Contrary to the office action, Hanson does not suggest establishing two classes of users. Any user could be a selling user or a downloading user. There is no differentiation between the users, just a differentiation between the user interfaces users access depending upon what they want to do in the system. Indeed, the entire foundation underlying the Hanson reference is a peer-to-peer system in which all users are peers, paragraph 0023, and is used amongst consumers, paragraph 0039. The digital content owners are not part of the system, except that there is money allocated to them based upon their digital rights. The user providing data is just as likely to search data, there is no suggestion that there are users that are primarily content providers. They are all just peers. Therefore, the combination of references does not teach 'two classes of users...' much less allocating bandwidth based upon their class.

Juitt does not cure this deficiency, because Juitt just allocates some predefined level of bandwidth to users based upon a role, not a class.

Applicant therefore submits that claims 1 and 19, and their dependent claims 3-7, 13-14 and 20 are patentably distinguishable over the cited art and request allowance of these claims.

Claims 2 and 9-11 were rejected under 35 USC 103(a) as being unpatentable over Adams, in view of Hanson, and further in view of Barker (US Publication No. 2002/0143976) and further in view of Juitt.

As discussed above, the combination of Adams, Hanson and Juitt does not teach the invention as claimed in claim 1, from which these claims depend, much less the further features of these claims. The addition of Barker to this combination does not overcome this deficiency. It is therefore submitted that claims 2 and 9-11 are patentably distinguishable over the cited art and allowance of these claims is requested.

Claim 8 was rejected under 35 USC 103(a) as being unpatentable over Adams, in view of Hanson, and further in view of Juitt, and further in view of US Patent Publication Number 2006/0015574, Seed.

As discussed above, the combination of Adams, Hanson and Juitt does not teach the invention as claimed in claim 1, from which these claims depend, much less the further features of these claims. The addition of Seed to this combination does not overcome this deficiency. It is therefore submitted that claim 8 is patentably distinguishable over the cited art and allowance of this claim is requested.

Claim 12 was rejected under 35 USC 103(a) as being unpatentable over Adams, in view of Hanson, and further in view of Juitt, and further in view of US Patent Application Publication Number 2003/0217152, Kasper.

As discussed above, the combination of Adams, Hanson and Juitt does not teach the invention as claimed in claim 1, from which these claims depend, much less the further features of these claims. The addition of Kasper to this combination does not overcome this deficiency. It is therefore submitted that claim 12 is patentably distinguishable over the cited art and allowance of this claim is requested.

Claims 15-18 were rejected under 35 USC 103(a) as unpatentable over Adams, Hanson, Seed, Kasper and Juitt.

The deficiencies of the combination of Adams, Hanson and Juitt have been discussed in detail above.

Claim 15 has been amended in a similar manner to claim 1, where the amount of bandwidth allocated to a first level depends upon a number of files the file-sharing users have to share. In summary, the combination of Adams, Hanson and Juitt does not teach 1) having file-sharing and querying users, 2) allocating bandwidth based upon the nature of the user, and 3) allocating that bandwidth with regard to the number of files a file-sharing user has to share.

The addition of Seed and Jasper to the combination does not cure these deficiencies.

Applicant submits that claims 15-18 are patentably distinguishable over the cited art and requests allowance of these claims.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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